1945

File No. O. University/45

Legal Dept.

A **BRANCH**

Subject.—

Opinions under the Bombay University Act, 1928.

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240-A

C O N T E N T S.

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5.	R.I.No.6042/18-7-45. O.No.5524/26-7-45.	Whether there is any objection to cancel E.D. Notification No.6328-B dt.20-4-45.	9-12.

EKM.9/7/

R.I.No.1111/5.3.45.

Office of the R.L.A.

All the points raised in the present case have been fully considered by the R.L.A. in his opinion No.6300, dated 20-9-1943. As pointed out in that opinion an extension of the territorial limits of the University of Bombay would be necessary for implementing the suggestion of the Government of India. Further the conflict of jurisdiction will not arise unless and until the Records Office of the Government of India, New Delhi applies for affiliation.

Sd/

Remembrancer of Legal Affairs.

EHN.9/7/ U.R. to E.D.No.1918, dated the 10th March 1945.

R.I.No.2370/17.5.45.
19

Office of the R.L.A.

Section 39(3) of the Bombay University Act,1928, is wide enough to enable Government to omit or vary any condition of affiliation proposed by the University. Attention is invited to R.L.A's opinion No.3901 dated the 30th July 1932.

Sd/

Remembrancer of Legal Affairs.

U.R. to E.D.2280 dated the 22nd March 1945.

EKN.9/7/

R.I.No.4913/21.6.45.

Office of the R.L. A.

The question raised for the consideration of the R.L.A. is whether a place can be within the territorial limits of several Universities simultaneously.

2. It is a general principle that "the legislative authority of every state must spend its force within the territorial limits of the State. The Legislature of one State cannot make laws by which people outside the State must govern their actions except as they may have occasion to resort to the remedies which the State provides or to deal with property situated within the State" (See Cooley Vol.I,pp.248-249). Upon the principle of comity, however, which is part of the law of nations, effect is given in one state or country to the laws of another in a great variety of ways one of which is that "though a corporation created by or under the laws of one State has in strictness no extra—territorial life or authority, and cannot of right insist upon extending its operations within the limits of another, yet this will be suffered without objection where no local policy forbids." (Ibid pp.251-52). The University of Bombay is a corporation created by the Bombay University Act,1928, which by section 4A empowers the Provincial Government to extend by an order the territorial limits of the University beyond the territorial limits of the State i.e. of the Province of Bombay. Consequently a place beyond the limits of the province of Bombay can be brought by an order under section 4A within the territorial limits of the University of Bombay whereupon the University of Bombay would be competent to exercise its powers under the Act. This would be subject to the proviso that such exercise of power is not forbidden either by the local policy or by the local law of the place. In the light of this legal position the present case has to be examined.

3. Sub-section (1) of section 5 of the Delhi University Act,1922, defines the territorial limits in which the powers

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of the University can be exercised. Sub-section (2) provides that notwithstanding anything in any other law for the time being in force, no educational institution within the aforementioned limit shall be associated in any way with ~~him~~ or be admitted to any privileges of any other University incorporated by law in British India, and any such privileges granted by any such other University to any educational institution within that limit prior to the Commencement of this Act shall be deemed to be withdrawn on the Commencement of this Act: Provided that the Central Government may, by order in writing, direct that the provisions of this sub-section shall not apply in the case of any institution specified in the order. It is presumed that the Imperial Record Office, Delhi, is not an educational institution within the meaning of sub-section (2) of section 5. If that presumption is correct, there will be no objection to extending the territorial limits of the University of Bombay to include the Imperial Record Office, Delhi. If however, the Imperial Record Office, Delhi, is an educational institution the sanction of the Central Government would be necessary under the proviso to section 5(2) of the Delhi University Act before any order can be passed by the Bombay Government under section 4A of the Bombay University Act.

Sd/

Remembrancer of Legal Affairs.

U.R. to E.N.No.4984, dated the 6th July 1945.

EKN.9/7/

R.I.No.5327/27.6.45
28

Office of the R.L.A.

Before affiliation, a college must comply with the conditions set out in sub-section (1) of section 39 of the Bombay University Act,1928. Sub-section (3) of section 39 vests in the Provincial Government the power to grant affiliation on the university being satisfied after due enquiry that the prerequisite conditions have been complied with. The power under sub-section (3) being unqualified, it is not open to Government to impose further conditions after affiliation. Consequently the G.R.(E.D.) No.6328 dated 20th April 1945 sanctioning the affiliation of the Seth Lalbhai Dalpatbhai Arts College, Ahmedabad, for two years subject to certain further conditions does not appear to be strictly in order. Since however the conditions imposed have now been complied with it is not necessary to cancel the G.R. to replace it by a fresh one.

Sd/-

Remembrancer of Legal Affairs.

U.R. to E.D.o.5076 dated the 10th July 1945.

EKN.9/7/

L.D.R.I.No. 6042 dated 18.7.45,

The E.D. has now raised the point as to whether G.N. E.D.No.6323-B, dated the 20th April 1945 at p.70 ante under which Government has sanctioned the affiliation of the S.L.D. College Ahmedabad for teaching the courses of study leading to the Inter Science Examination for a period of two years with effect from June 1945, should be cancelled as the proposed Science Classes have not been started, the College authorities being unable to fulfil the conditions laid down by the University Senate. The R.L.A. is requested to advise whether there is any objection to cancel the second notification granting affiliation to the S.L.D. College for Science Courses.

EKN.9/7/

OFFICE OF THE R.L.A.

Seen and returned.

2. There is no legal objection to cancelling the notification No.6328-B dated 20th April 1945.

Sd/

Remembrancer of Legal Affairs.

U.R. to E.D.No.5524,dated the 26th July 1945.

EKN.9/7/